IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.415 OF 2007

Sau Latabai w/o Dattatraya Jadhav ...Appellant

vs.

Dattatraya Gabaji @ Karbhari Jadhav ...Respondent

Mr.H.E.Palwe for the Appellant

CORAM: A.S.OKA,J.
DATE : DECEMBER 19,2007.

P.C.:

1. Heard Advocate for the Appellant. The Appellant is the wife. On a petition filed by the Respondent-husband, the trial court passed a decree of divorce on the ground of cruelty. The decree has been confirmed in the Appeal. The Appellate Court confirmed the decree on the ground of cruelty and also passed a decree on the ground of desertion.

2. In so far as issue of cruelty is concerned, in paragraph 14 of the Judgment of the Appellate Court following finding has been recorded:

. It is submitted by the learned counsel for the appellant that even if it is assumed that such allegations are baseless, even then as they are against the husband's brother as such they do not amount to cruelty to husband. According to him the husband and wife can live separately from the brother and can continue with the married life. However, I am unable to accept this submission. The

simple reason behind it is that such allegations against the brother of the husband are basically humiliating to the husband also. The allegations that children conceived by the second wife of the husband are recorded to be issued of the brother of the husband, is such allegation which is affecting directly the character and career of the husband. The allegations to the effect that though the brother of the husband was given such offer, husband was keeping silence are also insulting the husband father than his brother. I do no think therefore it possible for the husband to live with such wife who has made such reckless allegations against him in the past. Such conduct of the wife appears to be so grievous that it would make the cohabitation virtually unendurable..."

2. Apart from aforesaid finding, there is a clear finding of fact recorded in paragraph 9 of the Judgment of the Appellate Court that the parties have been living separately for a period of seven years and the Appellant has deserted the Respondent.

3. In view of finding of fact recorded by the courts below, no substantial question of law arises. Second Appeal is dismissed with no order as to costs.

JUDGE

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